

INTERGOVERNMENTAL AGREEMENT
(Regarding Cooperation on Managing Urban Development)

THIS AGREEMENT is executed this 8th day of January, 2001, by and between LARIMER COUNTY, COLORADO, a body politic organized under and existing by virtue of the laws of the State of Colorado, hereinafter referred to as the "County" and THE TOWN OF WINDSOR, a Colorado statutory town, hereinafter referred to as "Windsor".

WHEREAS, the Parties have determined that it is in their mutual best interests to preserve the unique identities of communities in the northern Colorado region, and

WHEREAS, maintaining and enhancing areas of urban development in a thoughtful and deliberate way involves cooperation in land use and transportation planning, implementation of growth management policies, and the identification and preservation of open space and natural areas; and

WHEREAS, concentrating urban development in areas designated for such development affords greater efficiency in the delivery of such services as water, storm water, and sanitary sewage disposal systems, transportation, fire and police protection and other services, and also affords a measure of predictability to landowners and residents concerning where services will, in the future, be provided and urban development will be permitted; and

WHEREAS, communication among local jurisdictions, special districts, property owners and other interested parties is essential to accomplishing these ends; and

WHEREAS, the purposes of this Intergovernmental Agreement (Agreement) are as follows:

1. Implementation of the Master Plan of Larimer County;
2. Implementation of the Comprehensive Plan of the Town of Windsor;

3. Establishing effective means of joint planning and management of urbanization within the unincorporated portion of the County in the vicinity of Windsor;
4. Assuring that urban development occurs only as urban level facilities and services are able to be provided to it;
5. Assuring that urban development on lands eligible for annexation to Windsor is annexed to Windsor prior to development;
6. Assuring that urban development that occurs in the unincorporated portion of the County in the vicinity of Windsor is annexed to Windsor as soon as possible;
7. Providing effective means for the appropriate maintenance of public improvements intended to serve urban development;
8. Discouraging "annexation wars" between Windsor and other municipalities;
9. Providing a mechanism for property owners, residents, and others to have input on and be informed as to where urban development will occur in the future;
10. Assuring that urban development in the vicinity of Windsor does not negatively impact road and storm drainage systems in unincorporated Larimer County, and to provide that when there are negative impacts, those impacts will be appropriately mitigated; and

WHEREAS, pursuant to various statutes of the State of Colorado, local jurisdictions are authorized to regulate the location of activities and developments, phase development of services and facilities, regulate development on the basis of its impact on the community or surrounding areas, plan for and regulate the use of land so as to provide for planned and orderly use of land and protection of the environment; to cooperate or contract with other units of government for the purpose of planning and regulating the development of land, including, but not limited to, the

joint exercise of planning, zoning, subdivision, building, and related regulations and annexation of property, all in a manner consistent with constitutional rights and statutory procedures; and

WHEREAS, planning and regulation of land use within the northern Colorado region is the responsibility of individual local jurisdictions; and

WHEREAS, any provisions in this Agreement may be implemented only to the extent legally permitted by State Law;

NOW, THEREFORE, in consideration of the covenants and obligations expressed herein, it is hereby agreed by and between the Parties as follows:

Section 1.0 Definitions.

Community Influence Area. An area beyond the Growth Management Area (GMA) within which specified types of development applications to the County will be referred to Windsor for comment.

Growth Management Area. That area into which urban development and annexation shall be directed and within which urban services to support such urban development are needed and are expected to be provided by Windsor, the private sector or a special district either currently or within the next ten (10) years. Once any portion of the GMA is annexed, that area then becomes a part of the municipality and is no longer a part of the GMA.

Open Land. Land area not occupied by any structure or impervious surfaces.

Planned Development. Development in the County pursuant to Section 5.2 of the County Land Use Code, or as may be amended.

Rural Areas. Areas which are outside of either Windsor's corporate limits, Windsor's GMA or any other municipality's GMA.

Rural Land Uses. Land uses allowed by the County zoning outside of designated urban areas or GMAs.

Subdivision. Development in the County pursuant to Sec. 5.1 of the County Land Use Code, or as may be amended.

Urban Development. Any development which utilizes urban level facilities and services.

Urban Level Facilities and Services. Services such as central water, storm water and sanitary sewage disposal systems, quick response fire protection, urban level street construction and maintenance, and/or similar services that are typically provided by Windsor and are necessary to serve urban development as defined in this Agreement.

Section 2. 0 Agreements.

2.1 Growth Management Area.

2.1.1 The Parties agree and recognize the GMA boundary, as identified in "Exhibit 1," dated December 11, 2000, attached hereto and incorporated herein, and all subsequent amendments thereto, identifying the area within which urban development may be located within the next ten (10) years. These boundaries are based upon population projections, estimated residential and nonresidential development, and acreage requirements and assessments of the ability to provide municipal or urban level facilities and services.

2.1.2 Windsor's Comprehensive Plan for the GMA, which includes any plans for land use, transportation, drainage, natural resources or other elements, will be specific enough to give clear guidance, through maps and text, to the County, property owners and developers as to what types, densities and intensities of land use are acceptable to Windsor for any given parcel of land or area in the GMA.

- 2.1.3 Once this Agreement is approved, the County will undertake the required legislative process to propose establishing the GMA Overlay Zone and supplemental land use regulations to implement this Agreement.
- 2.1.4 Windsor acknowledges that the County will not formally adopt Windsor's Comprehensive Plan for the GMA, however, the County will recognize the land use plan depictions of the Windsor Comprehensive Plan when proposing and adopting supplemental regulations to the County Land Use Code for the GMA. The County agrees that upon adoption of the GMA Overlay Zone, it will use those principles of the Windsor Comprehensive Plan specifically adopted in the supplemental regulations to guide growth in the GMA. The Parties further agree that any responsibilities of the County with respect to Windsor's Comprehensive Plan will be as established in this Agreement and the supplemental regulations. Nothing in this Agreement shall be construed or applied to limit the County's legislative authority or discretion in adopting or amending its land use regulations.
- 2.1.5 The County agrees that it will require rezonings, special reviews, site plans, Planned Development, and special exceptions that occur in the GMA to meet either the Larimer County development standards, as contained within the Larimer County Land Use Code and its technical supplements or any other standards contained in the GMA Overlay Zone and supplemental regulations, whichever standards are more stringent.
- 2.1.6 The Parties agree that the County may allow reasonable modifications from the standards where the County in its discretion determines that either (1) by reason of exceptional physical conditions or other extraordinary and exceptional

situations unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness, or topography, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional and undue hardship upon the owner of the affected property, provided that such difficulties are not caused by an act or omission on the part of the owner or applicant, or (2) the proposed modification will serve to advance or protect the public interests and purposes of the standards for which the modification is requested equally well or better than a plan which complies with the standard for which a modification is requested. The County agrees it will refer any proposed modifications to Windsor for its review and a recommendation.

2.1.7 The County agrees that it will not accept any application for rezoning, special review (including gravel extraction) or Planned Development on property that is eligible for voluntary annexation to Windsor unless an annexation petition which conforms to Windsor's standard annexation conditions is submitted to Windsor and is subsequently denied by Windsor. If such an annexation petition is denied by Windsor, the County may accept said application on the property and, if appropriate, approve it in accordance with the Larimer County Land Use Code.

2.1.8 Windsor agrees that, while it may make a recommendation to the County on rezonings, special reviews, and Planned Development within the GMA, the final authority and discretion regarding approval, disapproval, or approval with conditions rests with the Board of County Commissioners. If Windsor recommends against approval and the County subsequently grants approval, the

County agrees to provide a written statement to Windsor outlining the reasons for approval.

2.1.9 Windsor agrees that, while it may make a recommendation to the County on special exceptions within the GMA, the final authority and discretion regarding approval, disapproval, or approval with conditions rests with the Larimer County Board of Adjustment. If Windsor recommends against approval and the County subsequently grants approval, the County agrees to provide a written statement to Windsor outlining the reasons for approval.

2.1.10 Windsor and the County agree that, except as modified by the supplemental regulations, all County regulations, standards and procedures shall continue to apply to developments within the GMA. The Parties agree that appeals, interpretations, and variances, including those applied at the building permit stage, shall be processed and decided upon by the County as provided for in the Larimer County Land Use Code.

2.1.11 Windsor agrees that it will strive to achieve intergovernmental agreements with all applicable special districts which shall require the special districts to plan their facilities according to Windsor's adopted plan for the GMA.

2.1.12 Windsor acknowledges that any amendments to its comprehensive plan for the GMA will have no effect in the GMA without an amendment, if such is needed, to this Agreement and to the GMA Overlay Zone, and supplemental regulations.

2.1.13 The County agrees to encourage the location of urban development only in GMAs or other areas specifically designated for urban growth per the Larimer County Master Plan.

2.1.14 Windsor and the County agree to cooperate in the process of reviewing development proposals to clearly identify the impacts of the proposed development on infrastructure in Windsor and in the County, and particularly on existing road and storm drainage systems.

2.1.15 The County agrees to solicit a recommendation from Windsor prior to establishing any improvement district within Windsor's GMA.

2.1.16 Windsor has neither actual nor implied legal obligations to provide urban level facilities or services throughout the GMA and therefore may adopt policies of phased, concurrent service extensions based upon the availability of Windsor's adequate services and its own and other service providers' capabilities to extend public services. However, Windsor expects to be able, and intends to the best of its ability, to provide urban level facilities and services to the entire area of the GMA within a 10-year period. Within the GMA where such urban level facilities and services are expected to be provided by a special district, Windsor agrees that it will strive to reach an intergovernmental agreement with the respective special district, with this intergovernmental agreement stating that the respective special district shall provide its respective services at an urban level within the GMA within a 10-year period. Windsor represents that in the case of sewer service, the GMA is included in the North Front Range Water Quality Planning Association Water Quality Management Plan future sewer service area.

2.1.17 To the extent that rezonings, special reviews, or Planned Development in the GMA require the construction of off-site public improvements that are typically not associated with development in the County, Windsor agrees to provide a

mechanism for maintenance of those off-site public improvements. Such improvements include, but are not limited to, curbs and gutters, bicycle and pedestrian facilities, transit facilities, traffic signals, traffic control and traffic calming devices, drainage facilities, streetscapes, and medians.

2.1.18 In areas where Windsor has jurisdiction and oversight over the delivery of utility services and other services relative to public improvements, Windsor agrees to provide a mechanism for the performance of inspections of any utility or other public improvements provided by developers in the GMA. In areas where special districts have jurisdiction and oversight over the delivery of utility services and other services relative to public improvements, Windsor agrees to include in the intergovernmental agreement with the respective special district stipulates that the special district will perform these inspections. The County agrees that it will propose provisions in the supplemental regulations that Windsor or the special district may charge developers an appropriate fee for this inspection service.

2.2 Annexations.

2.2.1 Windsor agrees that the term "eligibility for annexation" shall mean any land that is contiguous to the corporate limits, and that it is Windsor's policy to annex as expeditiously as possible all lands eligible for annexation in the GMA at such time that an annexation petition, including all required fees and supplemental information, is received from the property owner(s). Windsor represents that it fully intends to annex all lands, including enclaves, in the GMA at such time that they become eligible for annexation based upon State annexation statutes.

- 2.2.2 Windsor agrees that it will annex any enclaves as expeditiously as possible. In the case of an enclave of undeveloped land or land that was developed in Larimer County prior to this agreement, Windsor will consider annexation at such time that an annexation petition, including all required fees and supplemental information, is received from the property owner(s). If such an annexation petition is not received, Windsor shall initiate annexation of such enclave within six (6) months after the 3-year anniversary of the creation of the enclave.
- 2.2.3 The County agrees that, in the case of lands within Windsor's GMA boundary which are not eligible for annexation, the County shall require applicants that are applying for rezonings, special reviews, site plans, Planned Development, and special exceptions after the effective date of this Agreement to sign an annexation agreement as a condition of development approval. Windsor agrees to annex any such land associated with a signed annexation agreement within six (6) months of said land becoming eligible for annexation.
- 2.2.4 Windsor agrees to annex property only within its GMA boundary as described in Exhibit 1.
- 2.2.5 Windsor agrees to annex the entire width of roadways and all roadways adjacent to its corporate limits.
- 2.2.6 Windsor agrees that it will not annex into the GMA or Cooperative Planning Area of another municipality, as officially recognized through an intergovernmental agreement with Larimer County, and Windsor further agrees that it will strive to achieve intergovernmental agreements with other municipalities to that effect.

2.3 Planning Coordination.

- 2.3.1 The County agrees to encourage the location of urban development into areas appropriate for such development as detailed in the Larimer County Master Plan.
- 2.3.2 The Parties agree that the Community Influence Area for Windsor is as shown in "Exhibit 2," dated December 11, 2000, attached hereto and incorporated herein, and all subsequent amendments thereto. Both parties agree that this boundary could overlap the GMA boundaries, Cooperative Planning Area boundaries, or Community Influence Area boundaries of other municipalities.
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- 2.3.3 Within the GMA and Community Influence Area, the County agrees to submit proposals for rezonings, special reviews, special exceptions, Planned Development, Conservation Development, or Subdivision for review to Windsor for comment. Windsor's review and comment shall be limited to whether the proposal is consistent with the GMA Overlay Zone and supplemental regulations. If Windsor recommends against approval and the County subsequently grants approval, the County agrees to provide a written statement to Windsor outlining the reasons for approval.
- 2.3.4 Windsor agrees to provide the County with written comments, if any, within twenty-one (21) days after the County or its authorized representative mails to Windsor a request for comments in accordance with state statute.
- 2.3.5 Windsor agrees to provide to the County an opportunity to review and comment upon applications for development within Windsor that may have an impact upon the County's public improvements, including, but not limited to, road or drainage improvements.

- 2.3.6 The Parties agree to cooperate in negotiating and adopting reimbursement agreements to require developers of properties who have public improvements that have been paid for by other developers to equitably reimburse those developers who originally paid for those public improvements.
- 2.3.7 The Parties agree to encourage the efficient use of land and open land preservation between communities. The Parties agree to strive to implement the recommendations of the regional Community Separator Study, or any jointly adopted Community Separator Plan.
- 2.3.8 The Parties agree to participate in the collaborative planning efforts among local jurisdictions throughout the northern Colorado region, including transportation planning, funding and construction.

2.4 Implementation.

- 2.4.1 The Parties agree that within one hundred and eighty (180) days from the effective date of this Agreement they will have proposed supplemental regulations to their Codes to implement the terms of this Agreement. Such proposed supplemental regulations will address fees, land uses and development standards. The Parties further agree to undertake the required legislative process to propose amending their respective land use codes or related documents and procedures as necessary to implement this Agreement.
- 2.4.2 The Parties agree to (a) notify newly-elected officials, new managers and key staff of the existence of this Agreement, and (b) on an as-needed basis, conduct training sessions on the procedures which are necessary to implement this Agreement.

2.4.3 If the Parties fail to reach agreement regarding GMAs and/or Community Influence Areas or any other provisions contained in this Agreement, the Parties agree to engage a trained mediator to help them resolve the issue.

2.5 Performance of Agreement.

Either Party may seek specific performance or enforcement of this Agreement in a Court of competent jurisdiction, but neither party shall have any claim or remedy for damages arising from an alleged breach hereof against the other, nor shall this Agreement confer on either Party standing to contest a land use decision or action of the other except as a breach of this Agreement.

2.6 Third Party Rights.

This Agreement is not intended to modify the standing the Parties may possess independent of this Agreement. This Agreement is between the Town of Windsor and Larimer County and no third party rights or beneficiaries exist or are created hereby.

2.7 Amendments.

The procedures for amending this Agreement, including any boundaries associated herewith, shall be as follows:

2.7.1 Amendments to the GMA boundary and supplemental regulations pertaining to the GMA Overlay Zone: This Agreement is implemented by the application of the GMA Overlay Zoning District and supplemental regulations pertaining to the geographic area of the GMA. Therefore, the procedure for amending the GMA shall be as specified in Sec. 4.4.5 of the Larimer County Land Use Code (Process for Changes to Zone or Overlay Zone District Boundaries), and all subsequent amendments thereto. The procedure for amending the supplemental regulations

shall be as specified in Sec. 3.8 of the Larimer County Land Use Code (Amending the text of the Code), and all subsequent amendments thereto. In no event shall the GMA boundary and/or the supplemental documents pertaining to the GMA Overlay Zone for Windsor be amended without the review and comment of the Windsor Board of Trustees.

- 2.7.2 Amendments to the text of this Agreement: The text of this Agreement may be amended only by written agreement of both Parties. Either Party may initiate an amendment, but any such initiation must be in writing.
- 2.7.3 Amendments to elements of Windsor's Comprehensive Plan within the GMA boundary: At least thirty (30) days prior to the adoption of any amendments to Windsor's Comprehensive Plan, Windsor shall notify the County and provide the County with an opportunity to make comments on any such amendments to Windsor's Comprehensive Plan that would in any way either (1) affect the GMA, (2) call for an amendment to the GMA Overlay Zone, or (3) cause any changes to be made to any of the supplemental regulations pertaining to the GMA Overlay Zone. Windsor shall notify the County of any such amendment to Windsor's Comprehensive Plan within 30 days of the adoption of any such amendment. As a result of any amendment being made to Windsor's Comprehensive Plan, the County shall not be obligated to amend either this Agreement, its GMA Overlay Zone or any supplemental regulations pertaining to the GMA Overlay Zone.
- 2.7.4 Amendments to Windsor's Community Influence Area boundary: In order to be recognized by both Parties, the boundary of Windsor's Community Influence Area may only be amended in writing upon mutual agreement of both Parties.

2.8 Time Period of Agreement.

This Agreement shall remain in full force and effect for a period of ten (10) years from the date of its execution. Thereafter, it shall be automatically renewed for successive 5-year terms unless at least six (6) months prior to its scheduled expiration, either Party should notify the other Party in writing of its decision that the Agreement not be renewed.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and
year first written above.

TOWN OF WINDSOR, COLORADO

By W. Wayne Miel
Mayor



ATTEST:

Cathy M. Kennedy
Town Clerk

Date 1/8/01

APPROVED AS TO LEGAL FORM:

[Signature]
Town Attorney

APPROVED AS TO CONTENT:

[Signature]
Town Administrator

THE COUNTY OF LARIMER, COLORADO

By Cheryl Olson
Chair, Board of Commissioners

ATTEST:

[Signature]
Secretary

Date 12-19-00

APPROVED AS TO LEGAL FORM:

[Signature] 11-30-00
County Attorney

APPROVED AS TO CONTENT:

[Signature]
County Manager

APPENDIX A

COLORADO STATUTES APPLIABLE TO INTERGOVERNMENTAL AGREEMENT

Pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has found and declared that in order to provide for planned and orderly development within Colorado and a balancing of the basic human needs of a changing population with legitimate environmental concerns, the policy of the State of Colorado is to clarify and provide broad authority to local governments to plan for and regulate the use of land within their respective jurisdictions; and

Pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has designated certain powers to local governments, among them the power to regulate the location of activities and developments which may result in significant changes in population density, the power to provide for phased developments of services and facilities, the power to regulate the use of land on the basis of the impact thereof on the community or surroundings areas, and the power to otherwise plan for and regulate the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights; and

Pursuant to Title 29, Article 20, Colorado Revised Statutes, as amended, the General Assembly of the State of Colorado has authorized and encouraged local governments to cooperate or contract with other units of government for the purpose of planning and regulating the development of land, including but not limited to the joint exercise of planning, zoning, subdivision, building, and related regulations; and

Pursuant to the Municipal Annexation Act of the State of Colorado, C.R.S. 31-12-1 through 123, towns have the authority to annex property; and

Municipalities are permitted by C.R.S. 31-12-105(1)(e) to annex land only if a majority of landowners owning at least 50% of the land petition for annexation, the area is entirely surrounded or owned by the municipality seeking to annex, or voters in the area approve of the annexation.

EXHIBIT 1

GROWTH MANAGEMENT AREA (GMA)
TOWN OF WINDSOR
December 11, 2000

LEGEND

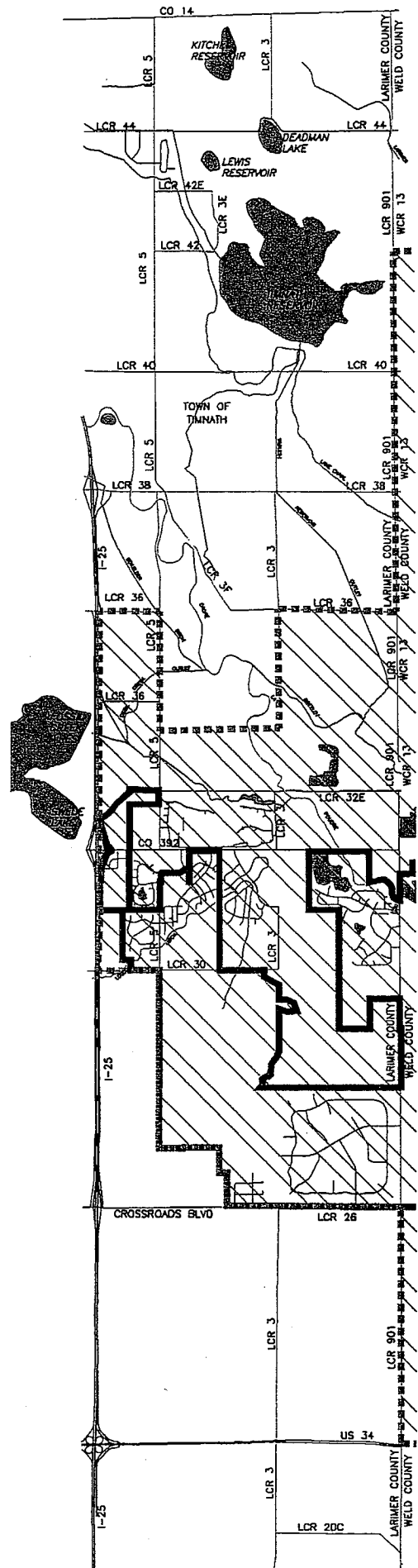
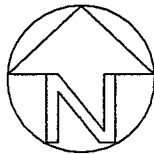
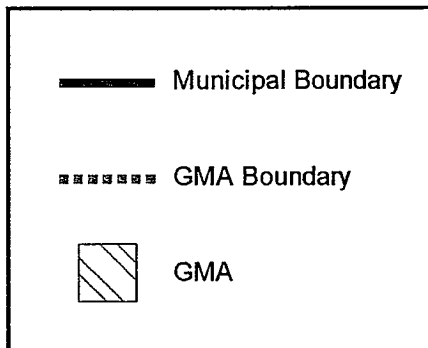


EXHIBIT 2

COMMUNITY INFLUENCE AREA (CIA)
TOWN OF WINDSOR
December 11, 2000

LEGEND

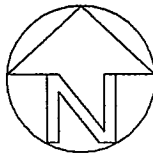
— Municipal Boundary

----- GMA Boundary

----- CIA Boundary

GMA

CIA



1 MILE

